

§ 220.11 Definitions as used in this subpart.

Functional capacity test means one of a number of tests which provide objective measures of a claimant's maximal work ability and includes functional capacity evaluations which provide a systematic comprehensive assessment of a claimant's overall strength, mobility, endurance and capacity to perform physically demanding tasks, such as standing, walking, lifting, crouching, stooping or bending, climbing or kneeling.

Independent Case Evaluation (ICE) means the process for evaluating claims not covered by appendix 3 of this part.

Permanent physical or mental impairment means a physical or mental impairment or combination of impairments that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.

Regular railroad occupation means an employee's railroad occupation in which he or she has engaged in service for hire in more calendar months than the calendar months in which he or she has been engaged in service for hire in any other occupation during the last preceding five calendar years, whether or not consecutive; or has engaged in service for hire in not less than one-half of all of the months in which he or she has been engaged in service for hire during the last preceding 15 consecutive calendar years. If an employee last worked as an officer or employee of a railway labor organization and if continuance in such employment is no longer available to him or her, the "regular occupation" shall be the position to which the employee holds seniority rights or the position which he or she left to work for a railway labor organization.

Residual functional capacity has the same meaning as found in § 220.120.

[63 FR 7541, Feb. 13, 1998]

§ 220.12 Evidence considered.

The regulations explaining the employee's responsibility to provide evidence of disability, the kind of evidence, what medical evidence consists of, and the consequences of refusing or

failing to provide evidence or to have a medical examination are found in § 220.45 through § 220.48. The regulations explaining when the employee may be requested to report for a consultative examination are found in § 220.50 and § 220.51. The regulations explaining how the Board evaluates conclusions by physicians concerning the employee's disability, how the Board evaluates the employee's symptoms, what medical findings consist of, and the need to follow prescribed treatment are found in § 220.112 through § 220.115.

[56 FR 12980, Mar. 28, 1991. Redesignated at 63 FR 7541, Feb. 13, 1998]

§ 220.13 Establishment of permanent disability for work in regular railroad occupation.

The Board will presume that a claimant who is not allowed to continue working for medical reasons by his employer has been found, under standards contained in this subpart, disabled unless the Board finds that no person could reasonably conclude on the basis of evidence presented that the claimant can no longer perform his or her regular railroad occupation for medical reasons. (See § 220.21 if the claimant is not currently disabled, but was previously occupationally disabled for a specified period of time in the past). The Board uses the following evaluation process in determining disability for work in the regular occupation:

(a) The Board evaluates the employee's medically documented physical and mental impairment(s) to determine if the employee has an impairment which is listed in the Listing of Impairments in appendix 1 of this part. That Listing describes impairments which are considered severe enough to prevent a person from doing any substantial gainful activity. If the Board finds that an employee has an impairment which is listed or is equal to one which is listed, it will find the employee disabled for work in his or her regular occupation without considering the duties of his or her regular occupation.

(b) If the Board finds that the claimant does not have an impairment described in paragraph (a) of this section, it will—